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10/686,298	10/15/2003	G. Gary Gochanour	GGG-10402/29	7109
25006 7590 01/17/2008 GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			EXAMINER LEE, LAURA MICHELLE	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/686,298  
Filing Date: October 15, 2003  
Appellant(s): GOCHANOUR, G. GARY

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John G. Posa  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/24/2007 appealing from the Office action mailed 4/03/2007

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1, 4-7, and 10-12.

Claims 5 and 11 are incorrectly presented in the brief as rejected and instead are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: In regards to the rejection under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,773,532, Claims 1 and 6 and also 10 and 12 stand rejected, not claims 5 and 11. Claims 5 and 11 are objected to.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,773,532	STEPHENSON	9-1988
2002/0073821	BROEHL	6-2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 6, 10, 12, are rejected under 35 U.S.C. 102(b) as being anticipated by Stephenson (U.S. Patent 4,773,532). Stephenson discloses a dispenser for a hand covering (sterile gloves), comprising a housing (14) to receive a roll of thin, flexible film (roll, 11) having opposing side edges capable of being used as a hand covering; a form (glove, 12) configured to be grasped (capable of being) by a user through the film (19)(i.e. by inserting their hand in the glove) such that the film (10) temporarily clings to the user's hand; and a set of interlocking chains (17) or opposing belts on either side of the housing to retain the side edges of the film (10) as it moves through the dispenser for each use.

In regards to claim 6, Stephenson discloses a hand shaped opening (22) to assist a user in grasping the form (12).

In regards to claim 7, Stephenson discloses a dispenser (sterile glove dispenser), comprising a roll (11) of thin, flexible film (10) having opposing side edges and an adhesive surface (i.e. the gloves are attached by adhesive to backing sheet 10) to be used as a hand covering (wherein the adhesive is on the outside of the glove/sheet which is used as a hand covering); a form (glove, 12) configured to be grasped by a user through the film (i.e. by inserting their hand in the glove) with the adhesive surface facing outwardly (on outside of the glove) such the film (10) temporarily adheres to the user's hand by means of the glove 12, and a set interlocking chains (perforations 17; Figure 2, whereby each sheet has a set of chains) or opposing belts on either side of a housing to retain the side edges of the film as it moves though the dispenser for each use.

In regards to claim 12, Henderson discloses a hand-shaped opening (22) to assist a user in grasping the form.

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephenson in view of Broehl (U.S. Publication 2002/0073821). Stephenson discloses a tear lines to cut the film into individual sheets as shown in Figure 2, but does not disclose a cutter. Attention is therefore directed to the Broehl device that discloses a sheet material dispenser wherein Broehl discloses that it is old and well known to provide a means of separating the sheet material by utilizing a pre-formed perforation line to tear the sheet material at set increments, or by providing a cutter bar that can tear the sheet material at indiscriminate increments. It would have been obvious to one having ordinary skill in the art to have provided a cutter bar on the device of Stephenson to increase its versatility so that it could be used with non-perforated sheet material as taught by Broehl.

#### **(10) Response to Argument**

Each of the appellant's arguments is herein addressed in the substantial order that is presented in the appellant's brief.

However, it is first noted that the appellant's arguments follow either one of two flawed lines reasoning; wherein the appellant is either incorrectly limiting the meaning of their claims to a singular interpretation provided by the appellant's specification or is instead incorrectly arguing for limitations of intended use. However, the claim

limitations are not as narrow as the appellant would have you believe, and the limitations of intended use, of which the prior art is capable of performing, do not provide a structural difference between the claimed invention and the prior art. The appellant is seeking patent protection over and above what the appellants are entitled and above what is claimed.

The appellant's first argument is incorrect in their assertion that the examiner's interpretation of the claimed limitation "set of interlocking chains," as per the claim limitation provided for in claims 1 and 7, is unreasonable, as the appellant is incorrectly narrowing the limitation to only read on the appellant's specification. As shown in the Merriam Webster Online Dictionary<sup>1</sup>, the definition for a chain has several interpretations, although one of them as pointed out by the applicant is a "series of usually metal links or rings connected to or fitted into one another and used for various purposes." However, this isn't the only definition provided for a "chain" and it would be improper to limit the metes and bounds to this singular interpretation. The subsequent definitions go on to disclose that a chain is also "something that confines, restrains, or secures... or is also a series of things linked, connected, or associated together." As shown in the Stephenson (U.S. Patent 4,773,532) reference, the series of perforations, as identified by reference, 17 (a.k.a. the interlocked chains), are clearly a series of items that are linked or connected together by the film (10), and are also used to restrain or secure the back sheet (reference #10; aka the film) within the housing (14) in combination with the crank and sprocket wheel (15/16). Thus, although, as argued by

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<sup>1</sup> <http://www.m-w.com/dictionary/chain>

the appellant, the Stephenson series of perforations (17) are not a series of metal links or rings connected to or fitted into one another, they are clearly a chain as provided for by the two dictionary definitions.

Secondly, at least two perforations can be considered a singular chain such that Stephenson discloses many sets of chains, each considered interlocked by the backing sheet (10) or conversely by an interspaced perforation. Moreover, each backing sheet (10) can also be considered (as was previously iterated in previous office actions) as having a singular set of perforations (17), which constitute a singular "chain of perforations." Therefore, the roll of backing sheets is comprised of many perforation chains, specifically one per backing sheet, each chain being interlocked by the tear lines (19). Clearly, the appellant's arguments are misplaced, as Stephenson's set of perforations obviously constitute a plurality of interlocked chain perforations.

The appellant continues to erroneously argue that Stephenson does not teach a "form configured to be grasped by a user through the film" as per the claim limitation provided for in claim 1. It is first noted that both the backing sheet (10) and the glove (12) are both capable of being used as a hand covering and that any typographical mistakes by the examiner in incorrectly transposing the sheet and glove for the respective film and form was unintentional. However, Stephenson clearly shows a form (glove, 12) capable of being grasped through the film (10). The appellant is arguing limitations of intended use of which Stephenson is capable of performing, and does not provide a structural difference between the claimed invention and the prior art.



Additionally, it is noted that beyond the means of grasping the form (12) through the film (10) by inserting the users hand inside the glove (12), that they are multiple other ways Stephenson can perform this intended use recitation; i.e. graphing the form (12) and film (10) together from the side, as in a tearing motion, or also from behind the film and form, such that the film envelops the form when grasped, or even by rolling the film over the form to form an overlapping tube shape, etc. Undoubtedly, Stephenson discloses a form that is capable of being grasped though the film.

The appellant third point, that Stephenson does not teach "a set of interlocking chains or opposing belts on either side of the housing to retain the side edges of the film", as per the claim limitation provided for in claims 1 and 7, is also erroneous. As discussed above, Stephenson clearly discloses a set of interlocking chains on one side of the housing. However, the appellant's contention that the limitation on "either side of the housing" can only be understood as meaning on both sides of the housing is again, an overly narrow interpretation. As such the limitation of "either" is broad enough to be read on "being the one and the other of two" or "being the one or the other of two" as stated again by the Merriam Webster Online Dictionary.<sup>2</sup> It is therefore improper to narrow the claim meaning to only what is disclosed by the appellant, as two appropriate interpretations apply. Should the appellant have meant the singular interpretation that the chains were on both sides of the housing, the appellant should have claimed as much, since although the claims are interpreted in light of the specification, limitations

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<sup>2</sup> <http://www.m-w.com/dictionary/either>

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant's furthermore mistakenly contends that with regard to the claim limitations of claim 7, that Stephenson does not teach "a roll of thin flexible film having opposing side edges and an adhesive surface to be used as a hand covering." It is again noted that both the backing sheet (10) and the glove (12) are both capable of being used as a hand covering and that any typographical mistakes by the examiner in incorrectly transposing the sheet and glove for the respective film and form was unintentional. However, Stephenson clearly shows a roll of thin flexible film (referenced as item 11) having opposing side edges with an adhesive surface (i.e. a surface with adhesive, item 25) capable of being used as a hand covering. As such, the film could be used as a hand covering with the glove still attached, or conversely the user could stick their hand in the glove without separating the glove from the backing paper. Alternatively, the glove and backing paper could be separated and each used as a hand covering. The appellant has not shown any structural difference between the claimed limitations and the prior art reference that would preclude for any of the above interpretations of which the backing paper is capable of functioning as a hand covering. The additional contention by the applicant that when the backing paper is separated from the hand covering that the adhesive is "used-up" is speculative, not supported by the Stephenson specification, and irrelevant as "glue," as insinuated by the appellant to be the claimed adhesive, is still an adhesive with an adhesive surface, whether or not

the surface is still tacky.

The appellant's final contention, that Stephenson does not disclose "an adhesive film facing outwardly such that the film temporarily adheres to the user's hand, is misleading", as the claim limitation actually recites "...the film with the adhesive surface facing outwardly..." As such, the appellant is describing that when the form is grasped by a user through the film, the adhesive surface faces outwardly. To have an adhesive "facing outwardly" in any direction does not mean that it must be available for contact, as is erroneously stipulated by the appellant. "Facing outwardly" merely provides a positional relationship of the orientation of the adhesive as to which direction that adhesive faces or is pointing towards. However, the appellant does not provide any additional limitations to define what direction constitutes an "outwardly" direction, and as such "outwardly" is open to interpretation. Outwardly is a relative term of which is dependent upon the user and additional contextual relationships, and as such, the appellant is mistaken in presuming that "outwardly" has a pre-defined meaning in regards to the other claimed structure. As such the adhesive surface faces outwardly depending upon the user's orientation such that it faces outwardly against the inner surface of the backing sheet (10), or faces outwardly against the inner surface of the glove (12). Again, the appellant incorrectly believes that their broad limitations are narrower than they are actually. Furthermore, the claim continues to recite that "...such that the film temporarily adheres to the user's hand..." Although the appellant would have you believe that the limitation of an "adhesive surface" and "temporarily

adheres to the user's hand" is a positive recitation that the adhesive performs the adhering, the appellant is again mistaken. The appellant's claims are so broadly recited that the adhesive surface is not positively claimed as performing the adhering function. Furthermore, the limitation of adhering is not limited to a sticking function, as a user grasping the film performs the act of adhering the film to the user's hand as supported by the Merriam Webster Online Dictionary<sup>3</sup> that discloses that "adhering" is interpreted as "to hold fast or stick by as if by gluing, suction, grasping, or fusing." All that the appellant is claiming is an intended use that when the form is grasped through the film, the adhesive surface faces in some relative outwardly direction that allows the film to adhere to (i.e. when it is held by) the user's hand.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Laura Michelle Lee



Examiner

Group 3700

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<sup>3</sup> <http://www.m-w.com/dictionary/adhering>

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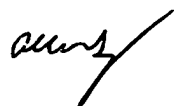
Conferees:

Boyer Ashley

Allan Shoap

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BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER

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